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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
HOEY, ALISSA L	

ART UNIT	PAPER NUMBER
3765	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/749,758	ALDRIDGE ET AL.	
	Examiner	Art Unit	
	Alissa L. Hoey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12/31/03*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-47* is/are pending in the application.

4a) Of the above claim(s) *27-30* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26 and 31-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/9/05 3/8/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 27-30 in the reply filed on 12/31/03 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 8, 10, 23, 24, 40, 41 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 2,507,463).

In regard to claim 1, Smith teaches a height adjustable protective garment comprising an outer shell shaped to fit about the chest, torso and legs of a wearer and having a waist portion shaped to be located at or adjacent to a waist of a wearer (figures 1 and 2). An adjusting strip (16) having an attachment portion directly or indirectly coupled to the outer shell (17) and a free end (18) which is generally spaced apart from the attachment portion. The free end being releasably attachable to the outer shell or to the strip of material to adjust the height of the protective garment (figures 1 and 2). The adjusting strip being located at or adjacent to the waist portion (figures 1 and 2).

In regard to claim 8, Smith teaches the adjusting strip (16) being releasably attachable to the outer shell to form the generally closed loop shape (figures 1 and 2).

In regard to claim 10, Smith teaches the garment having a central axis extending generally perpendicular to the waist of the garment and wherein the adjusting strip is orientated generally parallel to the central axis (figures 1 and 2).

In regard to claim 23, Smith teaches the garment including a plurality of adjusting strips (16) each having a base portion (17) fixedly coupled to the outer shell and an attachment portion (19) directly or indirectly coupled to the outer shell at a location spaced apart from the base portion. A free end (18) which is generally spaced apart from the attachment portion (19) and the free end (18) of each adjusting strip (16) being releasably attachable to the outer shell or the associated strip of material to adjust the height of the protective garment and wherein the adjusting strips are spaced about the waist of the garment (figures 1 and 2).

In regard to claim 24, Smith teaches a method of adjusting the height of a protective garment comprising the steps of providing a protective garment having an outer shell shaped to fit about the chest torso and legs of a wearer and having a waist portion shaped to be located at or adjacent to a waist of a wearer (figures 1 and 2). The protective garment including an adjusting strip having an attachment portion directly or indirectly coupled to the outer shell and a free end which is generally spaced apart from the attachment portion (figures 1 and 2). The adjusting strip being located at or adjacent to the waist portion of the garment and releasably attaching the free end to the outer shell or to the strip of material to adjust the height of the protective garment (figures 1 and 2).

In regard to claim 40, Smith teaches the free end being generally spaced apart from the attachment portion along a length of the adjusting strip (figures 1 and 2).

In regard to claim 41, Smith teaches the outer shell (7) including a front portion and a rear portion wherein the attachment portion is located on one of the front or rear portions (figures 1 and 2). The free end is configured to be releasably attachable to one of the front or rear portions of the outer shell of to the attachment portion (figures 1 and 2).

In regard to claim 46, Smith teaches a height adjustable garment (7) that is protective. An outer shell shaped to fit about the chest, torso and legs of a wearer and having a waist portion shaped to be located at or adjacent to a waist of a wearer (figures 1 and 2). A height adjustable system positioned at or adjacent to the waist portion of the garment such that the height adjusting system is operable to adjust the height of the garment (figures 1 and 2). The height adjusting system including first and second attachment components which are spaced apart from each other in a height direction of the garment. The first and second attachment portions are releasably attachable toge4ther to adjust the height of the garment (figures 1 and 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith.

Smith teaches a garment as described above in claim 46. Further, Smith teaches the first and second attachment components being snap fastener (18) which do not extend a significance distance around the perimeter of the garment. However, Smith fails to teach the first and second attachment components both being patches of hook and loop fastening material.

It would have been obvious to have provided the fastening components being hook and loop or snap fasteners, because as long as the fastening components provide height adjustability of a garment the type of fastener can be chosen from any equivalent and interchangeable fastener component that is well known in the apparel arts including hook and loop fasteners.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 26 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Snedeker (US 5,884,332).

In regard to claim 26, Snedeker teaches a height adjustable protective garment comprising an outer shell shaped to fit about the chest, torso and legs of a wearer and having a waist portion shaped to be located at or adjacent to a waist of a wearer (figures 1, identifier 12). The shell being a firefighters garment would be made out of a abrasion, flame and heat resistant material such that the outer shell resists igniting, burning,

melting, dripping or separation when exposed to a temperature of 500 degrees for at least five minutes (column 1, lines 5-50). A height adjusting system (50) positioned at or adjacent to the waist portion of the wearer such that the height adjusting system is operable to adjust the height of the protective garment (figure 1).

In regard to claim 39, Snedeker teaches a method for adjusting the height of a protective garment comprising the steps of providing a protective garment having an outer shell shaped to fit about at least part of the body of the wearer and inherently being made out of material that is capable of being abrasion, flame and heat resistant such that the outer shell resists igniting, burning, melting, dripping or separation when exposed to a temperature of 500 degrees for at least five minutes (column 1, lines 5-50). The height adjusting system positioned at or adjacent to the waist of the garment and operating the height adjusting system to adjust the height of the protective garment (figures 1, identifier 50).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 31 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snedeker in view of Aldridge (US 5,860,163).

Snedeker teaches a garment as described above in claim 26. However, Snedeker fails to teach the shell including a material selected form a group consisting of

an aramid material, a blend of aramid materials, a polybenzamidazole material and blend of aramid and polybenzamidazole materials. Further, Snedeker fails to teach the thermal liner including a material selected from the group consisting of an aramid needle punch material, an aramid batting material, an aramid non woven material, an aramid-blend needle punch material, an aramid-blend batting material or an aramid-blend non-woven material. Finally, Snedeker fails to teach a face cloth layer located inside the thermal liner and located to be the innermost layer of the garment.

In regard to claim 31, Aldridge teaches a firefighters garment with a shell including a material selected form a group consisting of an aramid material, a blend of aramid materials, a polybenzamidazole material and a blend of aramid and polybenzamidazole materials (column 6, lines 23-40).

In regard to claim 33, Snedeker teaches a thermal liner located generally inside the outer shell such that when the garment is worn the thermal liner is located generally between the outer shell and a wearer of the garment (column 5, lines 12-46).

In regard to claim 34, Snedeker teaches the moisture barrier being generally located between the outer shell and the thermal liner (column 5, lines 12-46).

In regard to claim 35, Aldridge teaches a firefighters garment including the thermal liner made of a material selected from the group consisting of an aramid needle punch material, an aramid batting material, an aramid non woven material, an aramid-blend needle punch material, an aramid-blend batting material or an aramid-blend non-woven material (column 1, lines 37-48).

In regard to claim 36, Aldridge teaches a face cloth layer located inside the thermal liner and located to be the innermost layer of the garment (column 2, lines 5-66).

10. Claims 1-15, 25, 37, 38 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snedeker in view of Putnam (US 4,888,830).

In regard to claim 1, Snedeker teaches a height adjustable protective garment comprising an outer shell shaped to fit about the chest, torso and legs or a wearer and having a waist portion shaped to be located at or adjacent to the waist of a wearer (figure 1).

However, Snedeker fails to the adjusting strip having an attachment portion directly or indirectly coupled to the outer shell and a free end which is generally spaced apart from the attachment portion. The free end being releasably attachable to the outer shell or to the strip of material to adjust the height of the protective garment. The adjusting strip being located at or adjacent o the waist portion.

Putnam teaches a height adjustable protective garment wherein the adjusting strip (30, 32) has an attachment portion directly or indirectly coupled to the outer shell and a free end (26) which is generally spaced apart from the attachment portion (32). The free end (26) being releasably attachable to the outer shell or to the strip of material (32) to adjust the height of the protective garment. The adjusting strip being located at or adjacent to the waist portion (figure 2).

In regard to claim 2, Putnam teaches the adjusting strip (30, 32) including a base portion (32) fixedly coupled to the outer shell and spaced apart from the attachment

portion wherein the attachment portion is located between the base portion and the free end (figures 2 and 3).

In regard to claim 3, Putnam teaches the adjusting strip (30, 32) being shaped and located such that when the free end (26) is releasably attached to the outer shell or to the strip of material the attachment portion pulls the portions of the outer shell to which the attachment portion is coupled generally upwardly to reduce the height of the garment (column 2, lines 36-50).

In regard to claim 4, Putnam teaches the adjusting strip (30, 32) being formed in a generally closed loop shape when the free end is releasably attached to the outer shell or to the adjusting strip (figure 2).

In regard to claim 5, Putnam teaches the adjusting strip being releasable attachable to itself to form the generally closed loop shape (figure 2).

In regard to claim 6, Putnam teaches the adjusting strip including first and second portions of hook and loop fastening material which are releasably attached when the strip of material is formed into the generally closed loop shape (figures 1 and 2).

In regard to claim 7, Putnam teaches the adjusting strip (30, 32) including a base portion fixedly coupled to the outer shell and spaced apart from the attachment portion (32). The attachment portion (32) being located between the base portion (figure 2) and the free end (26) and therein the first portion of hook and loop fastening material is located on or adjacent to the base portion (figures 1 and 2). The second portion of hook and loop fastening material is located on or adjacent to the free end (26, 28).

In regard to claim 8, Putnam teaches the adjusting strip (30, 32) being releasably attachable to the outer shell to form the generally closed loop shape (figures 1 and 2).

In regard to claim 9, Putnam teaches the garment including first and second portions of hook and loop fastening material which are releasably attachable to form the adjusting strip into the generally closed loop shape (figures 1 and 2). The first portion of hook and loop fastening material being located on the outer shell and wherein the second portion of hook and loop fastening material is located on or adjacent to the free end (figures 1 and 2).

In regard to clam 10, Putnam teaches the garment has a central axis extending generally perpendicular to the waist of the garment and wherein the adjusting strip is orientated generally parallel to the central axis (figure 2).

In regard to claim 11, Putnam teaches the adjusting strip (30, 32) including a base portion fixedly coupled to the outer shell and spaced apart from the attachment portion (32). The attachment portion is located between the base portion (36) and the free end (26). The adjusting strip further comprises a retaining loop (40) fixedly coupled to the outer shell and located over the attachment potion to indirectly couple the attachment portion to the outer shell (figure 2).

In regard to claim 12, Putnam teaches the retaining loop being orientated generally perpendicular to the central axis (figures 2).

In regard to claim 13, Putnam teaches a retaining loop being fixedly coupled to the shell on opposite sides of the adjusting strip (figure 2).

However, Putnam fails to teach the retaining loop being fixedly coupled on a pair of ends of the retaining loop.

It would have been obvious to have provided the retaining loop being fixedly coupled on a pair of ends or on a base portion because as long as the retaining loop is coupled to the garment how it is connected can be determined by one having ordinary skill in the art based on end use.

In regard to claim 14, Snedeker teaches the outer shell inherently being abrasion, flame and heat resistant.

In regard to claim 15, Snedeker teaches the outer shell inherently capable of resisting igniting, burning, melting, dripping or separation when exposed to a temperature of 500 degrees F. for at least five minutes (column 1, lines 54-66).

In regard to claim 25, Snedeker teaches a height adjustable protective garment comprising an outer shell that inherently is abrasion, flame and heat resistant and capable of resisting igniting, burning melting, dripping or separation when exposed to a temperature of 500 degrees F. for at least five minutes (figure 1, column 1, lines 54-66).

However, Snedeker fails to teach an adjusting strip having an attachment portion directly or indirectly coupled to the outer shell and a free end which is generally spaced apart form the attachment portion. The free end being releasably attachable to the outer shell or to the strip of material to adjust the height of the protective garment.

Putnam teaches a protective garment with an adjusting strip (32, 30) having an attachment portion directly or indirectly coupled to the outer shell and a free end which is generally spaced apart form the attachment portion (figures 1 and 2). The free end

(26) being releasably attachable to the outer shell or to the strip of material (30, 32) to adjust the height of the protective garment (column 1, lines 36-50).

In regard to claim 37, Putnam teaches the height adjusting system including an adjusting strip (30, 32) including an attachment portion directly or indirectly coupled to the outer shell and a free end which is generally spaced apart from the attachment portion (figures 1 and 2). The free end being releasably attachable to the outer shell or to the strip of material to adjust the height of the protective garment (figures 1 and 2).

In regard to claim 38, Putnam teaches the adjusting strip (30, 32) including a base portion (34m 36) fixedly coupled to the outer shell and spaced apart from the attachment portion (30, 32) and wherein the attachment portion is located between the base portion and the free end (26, 24).

In regard to claim 42, Putnam teaches the adjusting strip (30, 32) being spaced away from a crotch of the garment when the adjusting strip is formed in the generally closed loop (figures 1 and 2).

In regard to claim 43, Putnam teaches the adjusting strip is coupled to the trouser shell at a base portion and has a length that is less than the distance between the base portion and a crotch of the garment.

In regard to claim 44, Putnam teaches the height adjusting system including first and second attachment components (30, 32) which are spaced apart from each other in a height direction of the garment and wherein the first and second attachment portions are releasably attached together to adjust the height of the garment (figures 1-3).

In regard to claim 45, Putnam teaches the first and second attachment components are both patches of hook and loop fastening material which do not extend a significant distance around the perimeter of the garment (figures 2 and 3).

It would have been obvious to have provided the garment of firefighters garment of Snedeker with the adjustable strap of Putnam, since the firefighters garment provided with the adjustable strap of Putnam in place of the conventional suspenders adjustment would provide a height adjustable strap that also provides quick adjustment, attachment and release when the garment is donned of doffed during an emergency.

11. Claims 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snedeker and Putnam as applied to claims 1 and 14 above, and further in view of Aldridge (US 5,860,163).

However, Snedeker and Putnam fail to teach the shell including a material selected from a group consisting of an aramid material, a blend of aramid materials, a polybenzamidazole material and blend of aramid and polybenzamidazole materials. Further, Snedeker fails to teach the thermal liner including a material selected from the group consisting of an aramid needle punch material, an aramid batting material, an aramid non woven material, an aramid-blend needle punch material, an aramid-blend batting material or an aramid-blend non-woven material. Finally, Snedeker fails to teach a face cloth layer located inside the thermal liner and located to be the innermost layer of the garment and the moisture barrier comprised of a liquid impermeable and generally moisture vapor permeable material of polytetrafuoroethylene.

In regard to claim 16, Aldridge teaches a firefighters garment made out of an outer shell including a material selected from a group consisting of an aramid material, a blend of aramid materials, a polybenzamidazole material and a blend of aramid and polybenzamidazole materials (column 6, lines 23-40).

In regard to claims 17 and 18, Aldridge teaches a firefighters garment having a moisture barrier comprised of a liquid impermeable and generally moisture vapor permeable material of polytetrafuoroethylene (column 6, lines 58-65).

In regard to claim 19, Snedeker teaches a thermal liner located generally inside the outer shell such that when the garment is worn the thermal liner is located generally between the outer shell and a wearer of the garment (column 5, lines 12-46).

In regard to claim 20, Snedeker teaches the moisture barrier being generally located between the outer shell and the thermal liner (column 5, lines 12-46).

In regard to claim 21, Aldridge teaches the thermal liner including a material selected from the group consisting of an aramid needle punch material, an aramid batting material, an aramid non woven material, an aramid-blend needle punch material, an aramid-blend batting material or an aramid-blend non-woven material (column 1, lines 37-48).

In regard to claim 22, Aldridge teaches a face cloth layer located inside of the thermal liner and located to be the innermost layer of the garment (column 2, lines 55-66).

It would have been obvious to have provided the firefighters garment with height adjustment of Snedeker and Putnam with the material and layer construction of the

firefighter garment of Aldridge, since the material and layer construction provided in the garment with adjustment of Snedeker and Putnam would provide a firefighters garment with material construction that would not only provide great protection to the user during firefighting but also comfort to the wearer due to it's breathability.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moody, Rogers, Gertz, Taylor, Antonious, Maroist, Peyser, Saggs, Tominson, Aldridge, Smith, Freeman, Allen, Lewis, Garside, Love, Henrekin, Spruill, Henricksen, Collier, Coluccio, Ashbaugh, Kelleher, Neal, Kim, Watlington and Grilliot are all cited to show closely related garment articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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